

REMARKS

Upon entry of the claim amendment, Claims 1-6 will be all the claims pending in the application.

New Claim 6 is supported by the application as originally filed, including, *e.g.*, FIG. 1.

The subject matter of a claim need not be described literally, *i.e.* using the same terms or *in haec verba*, in order for the disclosure to satisfy the written description requirement. MPEP §2163.02. Instead, the fundamental factual inquiry is whether a claim defines an invention that was clearly conveyed to those skilled in the art at the time the application was filed. Ralston Purina Co. v. Far-Mar-Co., Inc., 227 USPQ 177, 179 (Fed. Cir. 1985).

Claim 6 defines an invention that was clearly conveyed to those skilled in the art at the time the application was filed. In particular, FIG. 1 clearly shows a device according to the invention wherein at least the end of any tube of the gas supply tubes (6) has its axis appreciably not parallel to an opposing wall of the mixing tube (5).

No new matter has been added.

For the reasons presented in the Amendment filed March 8, 2004, U.S. Patent No. 2,164,263 to Wall does not disclose the subject matter of Claims 1-5.

In addition, Wall fails to disclose the subject matter of Claim 6.

At page 7 of the final Action mailed December 7, 2003, the Examiner states that the ends of the plurality of tubes in Wall are arranged appreciably parallel to the opposing wall portion (19) of the venturi mixing tube. The Examiner asserts that the axis of any tube 22 is appreciably parallel to the opposite wall portion of the conical shaped mixing tube.

Claim 6 clearly excludes from its scope the Examiner's interpretation, summarized directly above, of Wall's disclosure.

Accordingly, Applicant respectfully requests the reconsideration and withdrawal of the §102(b) rejection based on Wall.


AMENDMENT
U.S. Appln. No. 09/869,523

Q64953

Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, he is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'L. Raul Tamayo', written over a horizontal line.

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